

REMARKS/ARGUMENTS

Claims 1-12 and 28-35 are pending in this application. Claims 1-12 and 28-35 are rejected in the Office Action of March 30, 2006. Applicant respectfully requests reconsideration of claims 1-12 and 28-35 in view of the remarks made herein.

Rejections under 35 U.S.C. § 102

Claims 1-12 and 28-35 are rejected under 35 U.S.C. § 102(b) as inherently anticipated by Zimmermann *et al.* (WO 99/03854, hereinafter referred to as "Zimmermann"). Applicant respectfully disagrees. While Zimmermann discloses 4-(4-methylpiperazin-1-ylmethyl)-N-[-methyl-3-(pyrimidin-2-ylamino)phenyl]-benzamide and its acid and base salts as a treatment for proliferative disorders, including small cell lung cancer, atherosclerosis, thrombosis, psoriasis, scleroderma, and fibrosis, Zimmermann does not disclose, expressly or inherently that these compounds, alone, may be used in the treatment of inflammation, as claimed by Applicant.

Inherency may not be established by probabilities or possibilities; the mere fact that a certain thing may result from a given set of circumstances is not sufficient. (*In re Robertson*, 169 F.3d 743, 45 (Fed. Cir. 1999)). Zimmermann does not teach the anti-inflammatory effect of 4-(4-methylpiperazin-1-ylmethyl)-N-[-methyl-3-(pyrimidin-2-ylamino)phenyl]-benzamide other than by having a synergistic effect with an anti-inflammatory drug. Applicant specifically points to Zimmermann, page 12, lines 11-15:

[T]he methanesulfonic acid addition salt of a compound of formula I has **no significant effect on epithelial necrosis or infiltration by inflammatory cells**, it does markedly reduce fibroproliferation and occlusion of the lumen compared with controls. **Synergistic effects** with other immunomodulatory or anti-inflammatory substances are possible...(emphasis added).

Zimmermann shows that the acid addition salt of 4-(4-methylpiperazin-1-ylmethyl)-N-[-methyl-3-(pyrimidin-2-ylamino)phenyl]-benzamide was tested with respect to two markers of inflammation, epithelial necrosis and infiltration by inflammatory cells, and showed no significant effect. Furthermore, rather than teaching or suggesting that 4-(4-methylpiperazin-1-ylmethyl)-N-[-methyl-3-(pyrimidin-2-ylamino)phenyl]-benzamide itself has anti-inflammatory properties, Zimmermann specifically suggests a **synergism** between 4-(4-methylpiperazin-1-

ylmethyl)-N-[-methyl-3-(pyrimidin-2-ylamino)phenyl]-benzamide and anti-inflammatory substances. "Synergistic" is defined by Webster's Third New International Dictionary as "an agent that increases the effectiveness of another agent when combined with it; a drug that acts in synergism with another." Thus, Zimmermann is not teaching, either explicitly or inherently that 4-(4-methylpiperazin-1-ylmethyl)-N-[-methyl-3-(pyrimidin-2-ylamino)phenyl]-benzamide **itself** (or its acid or base salts) can be used to treat inflammation, but rather, that when 4-(4-methylpiperazin-1-ylmethyl)-N-[-methyl-3-(pyrimidin-2-ylamino)phenyl]-benzamide is combined with an anti-inflammatory drug, "synergism *may* be observed." (Zimmermann, page 12, line 24.) Zimmermann does not disclose, either expressly or inherently that the claimed compounds may be used to treat inflammation, except as a synergistic agent with an anti-inflammatory agent. Furthermore, Zimmermann does not teach or suggest using 4-(4-methylpiperazin-1-ylmethyl)-N-[-methyl-3-(pyrimidin-2-ylamino)phenyl]-benzamide or its salts to specifically treat inflammation involving monocytes, M-CFS monocytes, autoimmune diseases, arthritis or lung injuries. Accordingly, Applicant respectfully submits that claims 1-12 and 28-35 are not anticipated by Zimmermann.

In view of the remarks made herein, Applicant submits that claims 1-12 and 28-35 are allowable over the prior art of record. If issues relating to this application can be resolved by discussion, the Examiner is invited to contact the undersigned attorney by telephone. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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